

Senate Study Bill 1059

SENATE FILE _____
BY (PROPOSED COMMITTEE ON COMMERCE
BILL BY CO=CHAIRPERSONS
BEHN and WARNSTADT)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the deregulation of communications services
2 including determining comparable services, considering market
3 forces, providing for expedited deregulation proceedings,
4 eliminating accounting plan requirements, eliminating
5 reporting requirements to the general assembly, and providing
6 effective and retroactive applicability dates.
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
8 TLSB 1748SC 81
9 kk/sh/8

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1 1 Section 1. Section 476.1D, subsections 1, 2, and 3, Code
1 2 2005, are amended to read as follows:
1 3 1. Except as provided in this section, the jurisdiction of
1 4 the board as to the regulation of communications services is
1 5 not applicable to a service or facility that is provided or is
1 6 proposed to be provided by a telephone utility that is or
1 7 becomes subject to effective competition, as determined by the
1 8 board.
1 9 a. In determining whether a service or facility is or
1 10 becomes subject to effective competition, the board shall
1 11 consider, among other factors, whether a comparable service or
1 12 facility is or may reasonably be expected to become available
1 13 from a supplier other than the telephone utility in the
1 14 geographic market being considered by the board and whether
1 15 market forces in that market are sufficient to assure just and
1 16 reasonable rates without regulation.
1 17 b. The board shall consider all of the following services
1 18 as comparable services or facilities to wireline
1 19 communications services:
1 20 (1) Wireless communications services.
1 21 (2) Cable telephony services.
1 22 (3) Voice over internet protocol services.
1 23 c. When considering market forces in the market proposed
1 24 to be deregulated, the board shall consider factors including
1 25 but not limited to the presence or absence of all of the
1 26 following:
1 27 (1) Wireless communications services.
1 28 (2) Cable telephony services.
1 29 (3) Voice over internet protocol services.
1 30 (4) Economic barriers to the entry of competitors or
1 31 potential competitors in that market.
1 32 d. If one or more telephone utilities providing wireline
1 33 or cable telephony services, other than an incumbent telephone
1 34 utility, offers services using the utility's own switching or
1 35 loop facilities in at least two-thirds of a given geographic
2 1 market served by an incumbent telephone utility, a rebuttable
2 2 presumption is established that effective competition exists
2 3 for that geographic market and the incumbent utility may file
2 4 a request for expedited deregulation proceedings for the
2 5 geographic markets affected. The request for expedited
2 6 deregulation shall describe the geographic markets alleged to
2 7 be affected. Within thirty days after the request is filed
2 8 and after opportunity for a hearing, the board shall issue an
2 9 order granting or denying the request.
2 10 e. In addition to other services or facilities previously
2 11 deregulated, effective March 1, 2005, the jurisdiction of the
2 12 board is not applicable to the regulation of any of the

2 13 following services:
2 14 (1) Business local exchange services provided throughout
2 15 the state.
2 16 (2) Residential additional line services provided
2 17 throughout the state.
2 18 (3) Except as regulation may be reimposed pursuant to
2 19 subsection 6, residential local exchange services provided in
2 20 the cities of Ames, Ankeny, Burlington, Cedar Falls, Cedar
2 21 Rapids, Clinton, Council Bluffs, Davenport, Des Moines,
2 22 Dubuque, Fort Dodge, Iowa City, Marshalltown, Mason City,
2 23 Muscatine, Ottumwa, Sioux City, and Waterloo, as those cities
2 24 are reflected in territory maps of the incumbent
2 25 telecommunications provider for the applicable exchange.
2 26 2. ~~Deregulation~~ Except as provided in subsection 1,
2 27 paragraph "e", deregulation of a service or facility for a
2 28 utility is effective only after all of the following:
2 29 a. A finding of effective competition by the board.
2 30 b. Election by a utility providing the service or facility
2 31 to file a deregulation accounting plan ~~but only if the utility~~
2 32 ~~providing the service or facility is subject to rate-of-return~~
2 33 ~~regulation at the time deregulation becomes effective. A~~
2 34 ~~deregulation accounting plan shall not be required for a~~
2 35 ~~utility operating under a price plan for the service or~~
3 1 ~~facility proposed to be deregulated.~~

3 2 c. Approval of a utility's deregulation accounting plan by
3 3 the board, ~~if a plan is required.~~

3 4 3. If the board determines a service or facility is
3 5 subject to effective competition and approves the utility's
3 6 deregulation accounting plan, ~~if a plan is required~~, the board
3 7 shall deregulate the service or facility within a reasonable
3 8 time.

3 9 Sec. 2. Section 476.98, Code 2005, is repealed.

3 10 Sec. 3. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES.

3 11 This Act, being deemed of immediate importance, takes effect
3 12 upon enactment and is retroactively applicable to March 1,
3 13 2005.

3 14 EXPLANATION

3 15 This bill relates to the deregulation of communications
3 16 services by the utilities board of the utilities division of
3 17 the department of commerce.

3 18 Under current law, before deregulating communications
3 19 services, the board must determine whether the communications
3 20 service or facility provided is subject to effective
3 21 competition by considering whether a comparable service is
3 22 being provided by another supplier in the same geographic
3 23 market and whether market forces in that market are sufficient
3 24 to assure just and reasonable rates without regulation. The
3 25 bill requires the board to consider whether a comparable
3 26 service may reasonably be expected to become available from
3 27 another supplier rather than only whether the service is
3 28 actually available from another supplier. The bill also
3 29 directs the board to consider wireless communications
3 30 services, cable telephony services, and voice over internet
3 31 protocol services to be services or facilities comparable to
3 32 wireline communications services. The bill directs the board
3 33 to consider, when considering market forces in a market
3 34 proposed to be deregulated, the presence or absence of
3 35 wireless communications services, cable telephony services,
4 1 voice over internet protocol services, and economic barriers
4 2 to the entry of competitors or potential competitors in that
4 3 market. The bill creates a rebuttable presumption of
4 4 effective competition where a wireline or cable telephony
4 5 provider other than an incumbent provider offers service using
4 6 its own switching or loop facilities in two-thirds of a
4 7 geographic market of an incumbent telephone utility. Where
4 8 such a rebuttable presumption exists, the incumbent telephone
4 9 utility can request an expedited deregulation proceeding
4 10 before the board.

4 11 The bill provides that effective March 1, 2005, all
4 12 business local exchange services, residential additional line
4 13 services, and residential local exchange services provided in
4 14 certain exchanges shall no longer be regulated by the board.

4 15 The bill provides that a deregulation accounting plan shall
4 16 be filed only if the utility is subject to rate-of-return
4 17 regulation. A deregulation accounting plan is not required
4 18 for a utility operating under a price plan for the service or
4 19 facility proposing to be deregulated.

4 20 The bill repeals Code section 476.98 requiring the consumer
4 21 advocate to calculate an estimate of the return of a local
4 22 exchange carrier operating under price regulation as if the
4 23 carrier were subject to rate-of-return regulation, and to

4 24 provide a report to the general assembly regarding the results
4 25 of the calculation and a recommendation as to requiring a
4 26 different form of rate regulation.
4 27 The bill takes effect upon enactment and is retroactively
4 28 applicable to March 1, 2005.
4 29 LSB 1748SC 81
4 30 kk:nh/sh/8